

**In the United States Court of Appeals  
for the Ninth Circuit**

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CLAYTON SALTER, individually, and on behalf of all others similarly situated,  
*Plaintiff-Petitioner,*

v.

QUALITY CARRIERS, INC., an Illinois Corporation, QUALITY DISTRIBUTION, INC.,  
a Florida Corporation,  
*Defendants-Respondents.*

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On Appeal from the United States District Court  
for Central California, Los Angeles  
Case No. 20-cv-00479 (The Hon. John F. Walter)

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**MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF PETITION  
FOR PERMISSION TO APPEAL**

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May 7, 2021

*Counsel for Plaintiff-Petitioner*

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Petitioner Clayton Salter respectfully requests leave to file a reply in support of his petition for permission to appeal the district court's order denying class certification, and to set the deadline for this reply to May 18, 2021. *See* Declaration of Matthew W.H. Wessler. The defendants-respondents do not consent to this request.

This Court's Circuit Rules and the Federal Rules of Appellate Procedure do not address the filing of a reply in support of a Rule 23(f) petition. Those rules, however, do allow a party seeking relief to reply to any opposition to that relief. *See* Fed. R. App. 27(a)(4) (permitting a reply to a response to a motion for relief), Fed. R. App. P. 28(c) (permitting a reply to a response brief).

Petitioner has good cause for requesting until May 18, 2021 to file his reply. Jennifer D. Bennett, lead appellate counsel and the primary brief writer for this case, underwent surgery this past weekend and requires the next few days to heal and recover. Her colleague Matthew W.H. Wessler has several pressing obligations that will continue to take up substantial time over the next two weeks, making it difficult to file the reply before May 18. This includes an oral argument before this Court in *Moser v. Benefytt* (No. 19-56224) on May 13, 2021.

For the foregoing reasons, this motion for leave to file a reply in support of Mr. Salter's 23(f) petition on May 18, 2021 should be granted.

Dated: May 7, 2021

Respectfully submitted,

/s/ Matthew Wessler

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## **CERTIFICATE OF COMPLIANCE**

This motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2) because this motion contains 237 words, excluding the parts of the brief exempted by Rule 27(a)(2)(B) and Rule 32(f). This brief complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because this motion has been prepared in proportionally spaced typeface using Microsoft Word in 14-point Baskerville font.

May 7, 2021

/s/ Matthew W.H. Wessler  
Matthew W.H. Wessler

*Counsel for Plaintiff-Petitioner*

## **CERTIFICATE OF SERVICE**

I hereby certify that on May 7, 2021, I electronically filed the foregoing motion with the Clerk of the Court of the U.S. Court of Appeals for the Ninth Circuit using the CM/ECF system. All participants are registered CM/ECF users and will be served by the CM/ECF system.

/s/ Matthew W.H. Wessler  
Matthew W.H. Wessler

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